

## Legislative Update

County Recorders Annual  
Conference  
April 2011

### Senate Bill 169

- Transfer on Death Deed
- Clarifies when endorsement of auditor needed
- Adds IC 32-17-14-11(i) The endorsement of the auditor under IC 36-2-11-14 is not necessary to record a transfer on death deed
- Amends IC 32-17-14-26 (b) (20) to add The affidavit must be endorsed by the county auditor under IC 36-2-11-14 in order to be recorded
- Effective Upon Passage

### House Bill 1079

- Amended IC 10-17-2-4 Effective July 1, 2011
- (b) A discharge record is not a public record under IC 5-14-3 **unless the veteran's Social Security number has been redacted. A county recorder shall redact the veteran's Social Security number upon receiving a written public record request for the discharge record.** A county recorder may provide a certified copy of a discharge record **that has not been redacted** only to the following persons: (1) The veteran who is the subject of the discharge record if the veteran provides photographic identification. (2) A person who provides photographic identification that identifies the person as a county or city service officer. (3) A person who provides photographic identification that identifies the person as an employee of the Indiana department of veterans' affairs.

## Senate Bill 205

- Payment of service charge to depository
- Amends IC 5-13-9-8
- The service charge may be paid:
  - (1) by direct charge to the deposit or other account; or
  - (2) in a manner that subtracts the service charge from interest earned on the funds in the deposit or other accounts
- Effective Upon Passage

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## Senate Bill 464

- Public Funds Effective July 1, 2011
- Adds IC 5-13-4-21.3
  - Public Servant has the meaning set forth in IC 35-41-1-24
- Amends IC 5-13-14-3 A public servant who knowingly or intentionally:
  - (1) fails to deposit public funds; or knowingly
  - (2) deposits or draws any check or negotiable order of withdrawal against the funds; except in the manner prescribed in this article, commits a Class A misdemeanor. However, the offense is a Class D felony if the amount involved is at least seven hundred fifty dollars (\$750), and a Class C felony if the amount involved is at least fifty thousand dollars (\$50,000). The public officer servant also is liable upon the officer's public servant's official bond for any loss or damage that may accrue.

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## Senate Bill 217

- Amended IC 35-44-1-2  
Official misconduct  
Sec. 2. A public servant who knowingly or intentionally:
  - (1) commits an offense in the performance of the public servant's official duties;
  - (2) solicits, accepts, or agrees to accept from an appointee or employee any property other than what the public servant is authorized by law to accept as a condition of continued employment;

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## Senate Bill 217 continued

- (3) acquires or divests himself or herself of a pecuniary interest in any property, transaction, or enterprise or aids another person to do so based on information obtained by virtue of the public servant's office that official action that has not been made public is contemplated; or
- (4) fails to deliver public records and property in the public servant's custody to the public servant's successor in office when that successor qualifies; commits official misconduct, a Class D felony.
- Effective July 1, 2011

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## Senate Bill 559

- Amends IC 35-44-1-3
- Conflict of interest
- Still must be submitted to State Board of Accounts
- Any question, consult with county attorney
- Effective July 1, 2011

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## House Bill 1022

- Adds New Chapter IC 3-5-9 Effective July 1, 2011
- Government Employees Holding Office
  - Sec. 1. As used in this chapter, "elected office" refers only to the following:
    - (1) The executive of a unit.
    - (2) A member of the legislative body or fiscal body of a unit.
  - Sec. 2. As used in this chapter, "government employee" refers to an employee of a unit. The term does not include an individual who holds an elected office and is not otherwise employed by the unit.
  - Sec. 3. As used in this chapter, "unit" means a county, city, town, or township.

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## House Bill 1022 Continued

- Sec. 4. Except as provided in section 6 of this chapter, an individual is considered to have resigned as a government employee when the individual assumes an elected office of the unit that employs the individual.

Sec. 5. This chapter does not prohibit a government employee from holding an elected office of a unit other than the unit that employs the government employee.

Sec. 6. (a) A government employee who holds an elected office of the unit on December 31, 2011, is not subject to this chapter until the term of office that the employee is serving on December 31, 2011, expires.

(b) A government employee who assumes an elected office of the unit on January 1, 2012, is not subject to this chapter until the term of office that the employee is serving on January 1, 2012, expires.

## House Bill 1022 Continued

- Adds new chapter IC 5-8-7 Effective July 1, 2011
- Suspension of local officeholders
- Defines eligible offense
- Local elected official does not include judge or prosecuting attorney
- Details process
  - Prosecuting attorney charges official with an eligible offense
  - Court finds probable cause
  - Legislative body adopts resolution

## House Bill 1022 Continued

- While suspended the official may not act in that capacity
- Not entitled to salary
- Is entitled to health benefits
- May seek judicial review by filing petition
- If convicted of eligible offense the official shall be removed from office
- If acquitted or charges dropped entitled to back pay

## House Bill 1022 Continued

- Adds new chapter IC 36-1-20 effective July 1, 2011
- Nepotism
- Defines who it applies to
- May not be employed by a unit if a relative to a member of the executive, legislative, or fiscal body of the unit
- Otherwise, individuals who are relatives and employees or elected officials of the unit may not be employed in a position in which the elected official or employee is in the line of supervision over the individual
- There are certain exceptions to this such as Sheriffs and matrons
- Also there is a grandfather clause and exclusion when an employee has held a position for 12 consecutive months before an elected official who is a relative assumes office.

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## House Bill 1022 Continued

- The unit must implement a policy that complies with this chapter
- Each elected official shall annually certify that the official is in compliance with this chapter subject to perjury and submit to executive no later than 12/31
- The annual report filed by unit with SBOA must include a statement by the executive that the unit has implemented a policy that complies
- If SBOA finds that a unit has not implemented a policy that complies that information is forwarded to the prosecuting attorney and the DLGF

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## House Bill 1022 Continued

- **If a unit has not implemented a policy that complies with this chapter:**
  - (1) the prosecutor of the county in which the unit is located may prosecute the executive for perjury under IC 35-44-2-1; and**
  - (2) the department of local government finance may not approve:**
    - (A) the unit's budget; or**
    - (B) any additional appropriations for the unit; for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit is in compliance with this chapter.**

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## House Bill 1022 Continued

- Related senate bills: 63 suspension of local officeholders, 166 local government employment, 302 nepotism
- Amended IC 33-42-2-7 Effective July 1, 2011
- For purposes of Article 2, Section 9 of the Constitution of the State of Indiana, notary public is not a lucrative office.

## House Bill 1025

- Amends IC 5-4-1-18 Effective July 1, 2011
- Officials Bonds
- Takes out the wording annual coverage
- Adds section (k) Both of the following apply to a bond or crime insurance policy that is filed to comply with this section (1) Unless the bond or policy is canceled, the bond or policy must continue in force for the term of office of the individual who files the bond or policy. (2) The aggregate liability of the surety or insurer is the amount specified in the bond or policy.

## House Bill 1025 Continued

- Adds section IC 5-11-1-27 Effective July 1, 2011
  - (a) As used in this section, "local government" means county, city, town, or township.
    - (b) In the compliance guidelines authorized under section 24 of this chapter, the state board of accounts shall define the acceptable minimum level of:
      - (1) internal control standards; and
      - (2) internal control procedures;
- for internal control systems of local governments. The internal control standards and procedures shall be developed to promote government accountability and transparency.

## House Bill 1025 Continued

- (c) All erroneous or irregular variances, losses, shortages, or thefts of local government funds or property shall be reported immediately to the state board of accounts. The state board of accounts shall:
  - (1) determine the amount of funds involved and report the amount to the appropriate government and law enforcement officials;
  - (2) determine the internal control weakness that contributed to or caused the condition; and
  - (3) make written recommendations to the appropriate legislative body or appropriate official overseeing the internal control system addressing:
    - (A) the method of correcting the condition; and
    - (B) the necessary internal control policies and internal control procedures that must be modified to prevent a recurrence of the condition.

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## House Bill 1025 Continued

- (d) The legislative body or the appropriate official overseeing the internal control system shall immediately implement the policies and procedures recommended by the state board of accounts under subsection (c)(3)(B).

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## House Bill 1484

- Amends IC 5-11-1-4 Effective July 1, 2011
- **(a)** The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be filed electronically, in a manner prescribed by the state examiner that is compatible with the technology employed by the political subdivision.
  - (b)** The department of local government finance may not approve the budget of a political subdivision or a supplemental appropriation for a political subdivision until the political subdivision files an annual report under subsection (a) for the preceding calendar year.

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## House Bill 1484 Continued

- Amended IC 5-11-13-1 Effective July 1, 2011
- Annual report on employee compensation
- Submitted in January
- **(b) The department of local government finance may not approve the budget of a county, city, town, or township or a supplemental appropriation for a county, city, town, or township until the county, city, town, or township files an annual report under subsection (a) for the preceding calendar year.**
- Added IC 6-1.1-17-16.2 which also states the same for both of these reports.

## Senate Bill 584

- Public Purchasing
- Adds new sections IC 5-22-15-20.9 and IC 36-1-12-22
- Applies only to a contract awarded by a political subdivision
- Allows for price preferences from a local Indiana business
- Sets the preference amounts
- Criteria for a local business to meet
- Effective July 1, 2011

## Senate Bill 524

- PERF
- Allows for a defined contribution plan that may be elected by state employees
- The general assembly is urging the pension management oversight commission to study the feasibility of offering this to political subdivision employees
- Effective July 1, 2011



## Senate Bill 26

- Adds IC 36-1-7-16 and IC 36-1-7-17
- Effective July 1, 2011
- If the political subdivision enters into an agreement with one or more political subdivisions to transfer, combine, or share powers duties functions or resources
- If the political subdivision combines or reorganizes a department, agency or function
- If either of these result in a savings or reduction in reasonably foreseeable expenses and
- The DLFG would otherwise reduce permissible levy or budget to eliminate double taxation or excess amount to pay for services
- The DLGF will establish criteria to allow the subdivision to include in its budget and levies part of the amounts that would otherwise be reduced.

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